THE HON'BLE MS JUSTICE G.ROHINI

–

WRIT PETITION NO : 20916 of 2004

Dated: 27-01-2006

Between:

The Uribaita Anjaneya Swamy Temple Trust Board

..... PETITIONER

AND

The Collector, Kurnool District and others

.....RESPONDENTS

–

–

–

–

O R D E R:

–

Heard the learned counsel for both the parties and perused the material on record.

This writ petition is filed by the Uribaita Anajaneya Swamy Temple Trust Board alleging that respondents 1 to 4 herein have been taking steps to assign Ac.1.30 cents of land belonging to the petitioner to the landless poor. It is stated that the land situated in Sy.No.297 to an extent of Ac.1.30 cents of Yemmiganur Town was the Trust property and that the same had been in exclusive possession and enjoyment of the Trust. It is alleged that certain persons in order to grab the land belonging to the petitioner-Temple made a request to assign the land for construction of houses and on the basis of the same, the Mandal Revenue Officer, Yemmiganur Town inspected the lands and was taking steps to assign the same at the instance of the local political leaders. It is contended that the said action of the respondents was not in conformity with the statutory provisions. Hence, this writ petition.

On behalf of respondents 1 to 3, a counter-affidavit has been filed, in which, it is stated that on a representation made by the public of Yemmiganur Town and

on a request made by the Member of Legislative Assembly, Yemmiganur, an extent of Ac.1.14 cents, situated in Sy.No.297/2 of Yemmiganur Town was proposed for providing house sites to the landless poor of Yemmiganur Town and all the beneficiaries had been residing in the vacant place by constructing huts of their own for the past 20 years. All of them eke-out their livelihood on daily wages and their annual income is Rs.10,000/- per year. Since the request of the said occupiers was found to be genuine, proposals were submitted for acquisition of the land in question. Accordingly, the total extent of land in Sy.No.297, admeasuring Ac.1.30 cents was sub-divided as Sy.No.297/1 and land to an extent of 16 cents, was deleted for temple purpose and remaining portion of the land measuring Ac.1.14 cents was proposed for assignment for house sites to the poor. The Endowments Department was also addressed a letter to part with the above land on payment of market value to be fixed by the Collector, Kurnool. The proposals under Section 4 (1) and Draft Declaration under Section 6 of the Land Acquisition Act, 1894, were submitted to the Collector, vide proceedings, dated 13.10.2004, of the Revenue Divisional Officer, Adoni. It is further stated that the market value as fixed by the Collector, Kurnool would be paid to the Endowments Department and after payment of the compensation, the land would be acquired through the land acquisition process and then it will be distributed to the occupants, who are landless poor.

The fourth respondent-Commissioner of Endowments filed a separate counter-affidavit, in which it is stated that it is the policy of the Government of Andhra Pradesh to distribute the endowments land to landless poor and in pursuance of the same, they have given consent to the proposals made by respondents 1 to 3 for acquiring the land in question. The allegations made by the petitioner that there was collusion with the local political leaders has been categorically denied.

It is also relevant to note that after a new Trust Board has been constituted vide proceedings, dated 21.03.2005, the newly elected Chairman, Sri K.B.Bajarappa, filed a fresh affidavit, on behalf of the petitioner in which it is stated that in the land in question about seventy people had erected huts and they had been living since more than twenty years and that they were not paying any rents or amounts to the Temple and consequently, the Temple sustained financial loss.

It is also stated that it is difficult to evict the said persons from the Temple land as they had been residing for more than two decades. The proposals under the Land Acquisition Act for acquiring the land in question are in progress and that the second respondent had valued the land at Rs.2,10,000/- per acre. In the circumstances, it is stated that it is in the interest of the petitioner-Temple to assign the land in question to landless poor after acquiring the same by following due process of law.

Having heard the learned counsel for both the parties and having regard to the pleadings of the parties referred to above, it is clear that certain third parties, who got themselves impleaded as respondents 5 to 14 to this writ petition have been in possession of the land in question for the past about two decades. It is not in dispute that they have encroached into the land and they have not paying any rents to the temple lands. The case of the petitioner is that due to the said encroachment, the Temple has sustained financial loss. Admittedly, the proposals under the land Acquisition Act have already been initiated for acquiring the land, which is already in occupation of the third parties.

Respondents 1 to 4 in their counter-affidavit categorically stated that the compensation, to which, the petitioner-Trust Board is entitled to will be paid following due process of law. In the circumstances, I am of the opinion that the action of the respondents in proposing to assign the land in question to the landless poor, who are already in occupation of the land, cannot be held to be arbitrary or illegal.

Accordingly, the writ petition is disposed of granting liberty to respondents 1 to 4 to proceed with the proceedings already initiated under the Land Acquisition Act for acquisition of the
land in question and to grant pattas to the occupants following due process of law after payment of compensation to which the petitioner is entitled to. No costs.

_____

G.ROHINI,J

27-01-2006

klp/kdl